

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH

EDWARD MAJOR,)	
)	
Plaintiff,)	CASE NO. 2:22-CV-00168-RAL
)	
vs.)	RICHARD A. LANZILLO
)	UNITED STATES MAGISTRATE JUDGE
)	
SCI GREENE, C.O. DILLER,)	
CORRECTIONAL OFFICER, SCI-)	
GREENE; T. JELLOTS, RESPONDING)	ORDER ON DEFENDANTS' MOTION TO
LIEUTENANT, SCI-GREENE; MICHAEL)	DISMISS
ZAKEN, FACILITY MANAGER, SCI-)	
GREENE; C. GREENAWALT, FACILITY)	IN RE: ECF NO. 19
GRIEVANCE COORDINATOR, SCI-)	
GREENE; GRIEVANCE COORD. M.)	
ANDRETTI, FACILITY GRIEVANCE)	
COORDINATOR, SCI-GREENE; MR.)	
ERIC ARMEL, FACILITY MANAGER,)	
SCI-FAYETTE; AND JAIMIE)	
GARDENER, LAW LIBRARIAN;)	
)	
Defendants,)	
)	

In response to the Defendants’ pending motion to dismiss (*see* ECF No. 19), Plaintiff Edward Major (“Major”) has filed both an Amended Complaint (ECF No. 24) and a Response in Opposition (ECF No. 25). These filings are procedurally inapposite and create confusion as to whether Major wishes to oppose the motion to dismiss (and stand on his previously filed complaint) or desires to proceed under the Amended Complaint. *See, e.g., Sledge v. Martin*, 2022 WL 1597419, at *1 (W.D. Pa. May 19, 2022).

The Court will resolve the uncertainty in favor of Major’s Amended Complaint. Federal Rule of Civil Procedure permits the filing of an Amended Complaint in response to a motion to

dismiss without leave of Court. *See* Fed. R. Civ. P. 15(a)(1)(B) (“A party may amend its pleading once as a matter of course within ... (B) 21 days after the service of a motion under Rule 12(b) ...”). In general, an amended complaint supersedes the original complaint, rendering the previously-filed pleading a nullity; the amended complaint becomes the operative pleading. *See Garrett v. Wexford Health*, 938 F.3d 69, 82 (3d Cir. 2019). Thus, Major’s Amended Complaint (docketed at ECF No. 24) is now the operative pleading in this case.

Given that the Defendants’ motion to dismiss challenged the previous (and now inoperative) complaint, that motion is denied as moot. In light of that denial, the Defendants have several options. After reviewing the Amended Complaint, they may file a new motion to dismiss within thirty days of the date of this order or an Answer to the Amended Complaint within fourteen days. In the alternative, the Defendants may notify the Court of their intention to stand on their previous motion in its entirety. The Court would then reactivate the motion (docketed at ECF No. 19) and accompanying documents (ECF No. 20). Or, they may stand on their prior motion and file a supplementary memorandum addressing any new allegations brought in the Amended Complaint. Major would then be afforded thirty days to file a response.

Further amendment of pleadings would not be permitted without leave of court. *See* Fed. R. Civ. P. 15(a)(3).

SO ORDERED this 12th day of September, 2022.

BY THE COURT:



RICHARD A. LANZILLO
UNITED STATES MAGISTRATE JUDGE